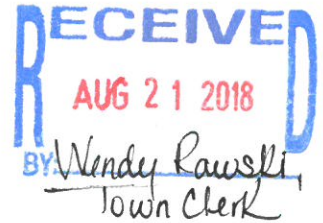


**TOWN OF ELIOT  
BOARD OF APPEALS REGULAR MEETING  
MAY 17, 2018  
APPROVED MINUTES**



**1. 7:00 PM: ROLL CALL**

Present: Chairman Bill Hamilton; Vice-Chair Peter Billipp; Secretary Ellen Lemire; Kate Hanson and John Marshall, Alternates

Absent: Charles Rankie {excused}; Jeffrey Cutting {unexcused}

Also present: Heather Ross, CEO; Town Atty. Philip Saucier, Esq.

Chairman Hamilton called the meeting to order at 7:00 p.m. He said there will be no public hearings tonight. He said they have five members present tonight and all will be voting.

**2. PUBLIC HEARINGS none**

Chairman Hamilton said the first order of business is the waiver requirements, which we will divide into two parts: waiver requirements and the second will be the BOA application that Heather Ross came up with. Chairman Hamilton said this discussion came about during our last public hearing in April.

Bob Pomerleau wished to be recognized.

Chairman Hamilton acknowledged Mr. Pomerleau and asked if he had a question.

Mr. Robert Pomerleau said before they start discussing this, he had grave concerns about this Board being compliant with the Town Charter. He said he was not speaking as a Selectman, but as a private citizen. He said that the Board of Appeals should be providing for public input at meetings like this, not when you are dealing with a case.

Chairman Hamilton asked Mr. Pomerleau what he was referring to specifically?

Mr. Pomerleau replied the Board should have public input and there should be a public comments segment during their meeting but the Board of Appeals doesn't have that.

Chairman Hamilton said they do, they have a public hearing.

Mr. Pomerleau said not a public hearing, he would not interfere with quasi-feedback. He asked for the Board's indulgence and read Sec. A, paragraph 1 (d) of the General Provisions of the Town Charter: under Article 8.7, General Provisions, All Appointed Boards, Committees and Commissions: *"All meetings shall be open to the public and the public allowed to speak except as otherwise provided by statute and any person must be permitted to attend. Any member of the public shall be allowed the opportunity to speak relevant to agenda items on any subject, motion or vote at such proceedings. Time limits may be set by boards, committees and commissions."*

Mr. Pomerleau read again from Sec. A, 2 (h) regarding Board, Committee or Commission Chairperson: *"shall welcome public comment at appropriate segments of their meetings"* not specifically dealing with a case. He said the Board should be providing a period during their meeting for public input. He said most Committees have complied with that. He said if it is not all in the discussion, Chairman Hamilton should be allowing public input. He said he has a problem with the Board of Appeals meeting not being compliant with the Town Charter.

Chairman Hamilton said he takes exception to that. He said there has never been an instance for anyone to raise their hand and been denied to make a comment, other than during the formal proceedings of the meeting.

Mr. Pomerleau said that the Board of Appeals does not offer it either.

Ms. Lemire said it is not on the agenda.

Mr. Pomerleau said he would not know because it is not on the agenda.

Ms. Lemire said that is easy to put on the agenda.

Mr. Billipp said it should be an agenda item, we want to be compliant with the Town Charter.

Chairman Hamilton said he has not heard that before in 20 years and he does not think he has ever attended a Board of Appeals meeting where there was a public comment section, but now that it has been addressed, we will add that and thanked Mr. Pomerleau for pointing that out. He asked if there were any comments from interested members of the public?

Mr. Robert Fischer, Frost Hill Road, asked if he could have an agenda.

Ms. Ross gave him hers.

Chairman Hamilton asked if there were any other comments? Hearing none, he moved on to the next agenda item.

### **3. DISCUSSION OF WAIVER REQUIREMENTS AND NEW BOA APPLICATION**

#### **Discussion of Waiver Requirements:**

Chairman Hamilton said the Board will discuss the waiver requirements which came up at the last public hearing in April. He said they were asked to review the request for a waiver of dimensional standards for a non-conforming lot of record in a subdivision and there was an application given to the applicant which outlines five questions about the nature of the waiver request. He said before the meeting, where all of this became apparent, some of the members had questions as to what a waiver is and where is it located in the ordinance or State statute. He said he looked up the ordinance and the statute and could not find anything.

Chairman Hamilton said it is not like requirements for a Variance that an appellant has to meet every one of the four stringent criteria, which is taken from State statute or the ordinance, or it will be denied. He said it is very clear in the ordinance that, for an Administrative Appeal against the Planning Board or Code Enforcement Officer, the appellant has the burden of proving whether the decision was made based on meeting something in the ordinance that was not arbitrary or capricious and that the Planning Board determined or the CEO acted in accordance with the town code. He said he could not find criteria for this current waiver.

Chairman Hamilton said the ordinance allows the CEO to grant up to a 25% waiver for setbacks and any request exceeding that would have to come before the Board of Appeals. He asked what criteria can they use to grant a waiver or not? He said there are five questions on our application and they were not sure where they came from. He said this was pointed out by the Town Attorney in his correspondence that they come from Title 30-A, §4353 of the State statute.



Chairman Hamilton said it is mentioned in Sec. 4B and begins on page 124 of our 2017 Land Use Manual that outlines variances from dimensional standards and read: *"a municipality may adopt an ordinance that permits the Board to grant variances from dimensional standards when strict application of the ordinance to the petitioner would cause practical difficulty or when the following conditions exist."* He said that is the same, and it was placed on the application for a waiver; however, it does not give us criteria to make a determination because it is not in the zoning ordinance.

Chairman Hamilton said he contacted the MMA Legal Dept. and their staff attorney, Rebecca MacMahon got back to him. He said that Title 30-A, §4353 gives the Board of Appeals the authority for granting zoning variances, but the language of the statute preempts the municipality's home rule, and read her e-mail:

*"Title 30-A MRSA § 4353 gives the board of appeals the sole authority to grant zoning variances (with some exceptions expressly authorized in the statute). The language of this statute preempts a municipality's home rule authority to delegate the authority to grant zoning variances to others. I am concerned that the provision in Eliot's zoning ordinance allowing the code enforcement officer to grant a 25% reduction in frontage, setback or yardage requirements may be an improper delegation of zoning variance granting authority.*

*Section 4353 also says that a municipality has home rule authority to adopt **additional** limitations on the granting of a variance but does not provide authority for municipalities to establish variance criteria that is more relaxed than that expressly outlined in the statute. Given this, I have concerns about the distinction in Eliot's ordinance between a waiver of any frontage, setback or yardage requirements up to 50%, and a full variance of such requirements by more than 50%. As established, a waiver appears to be essentially a variance in which applicants aren't required to meet statutory variance standards, which I do not think the town has home rule authority to do.*

*Even if the issuance of a waiver is something that the board of appeals can grant under the express authority of § 4353, the board has no legal authority upon which to base a decision on a waiver request absent any criteria established by ordinance. Neither does the board have the authority to decide to review the waiver application under the variance standards, when as written the ordinance clearly intended to differentiate between waivers and variances.*

*I think it is a good idea for the town to look into amending the ordinance. In the meantime, if another waiver application comes before the board, I would first speak with the town attorney to get their advice on whether you should review the request, since they will be responsible for defending the board's decision on appeal. If your attorney agrees that it is something the board can review, you may find guidance on how to develop your findings through past board practice in granting such waivers. It looks as though the provision in question has not been amended since 1989, so I would suspect there have been other waivers requested under this provision that have been reviewed by previous boards."*

Chairman Hamilton said our concern is if we don't grant a 50% waiver to a setback requirement to a non-conforming lot of record and it is taken to court and our appeal decision is contested, we do not have too much to stand on. He said if someone asked why the Board granted a waiver to that person, but he did not get one, then they are part of a legal quandary and that is why he asked Atty. Philip Saucier to come tonight to speak with them. He said, Mr. Saucier, the floor is yours.

Atty. Saucier said that Chairman Hamilton framed the issue very well and agreed with the MMA attorney's opinion and that they do not have the authority to grant waivers. He said he wanted to back up a moment and say that the Board of Appeals has the authority to grant variances under State statute and §4353. He said there are two variances – one that is required which you are familiar with is the undue hardship, which is clear. He said another variance that is required, but not in the town

ordinance, is a “disability variance” which is specific and can be used for things like ramps or other access ways to gain entry into a house.

Atty. Saucier said there are two other variances that are not in the town ordinance that are optional. He said one, which the town can decide to include, is the “practical difficulty” variance which is slightly easier to get or a variance called the “setback variance” for single family dwellings. He said waivers are not listed anywhere for the Board of Appeals in State laws, and in his view, they do not have the authority to grant waivers, but they do have the power to ignore their town ordinance, but they have to go through the waiver process and someone could challenge their authority.

Atty. Saucier said the town should amend the ordinance to include the practical difficulty variance or the setback variance, both of which are not in the town’s ordinance and eliminate waivers.

Atty. Saucier said the Board of Appeals should continue to hear them until the town amends the ordinance and eliminates the waiver or add one of the variance standards. He said the “practical difficulty” variance – which the MMA Attorney alluded to – is limited to non-conforming lots of record. He said you could add new criteria for the specific variance.

Ms. Hanson asked if that would be for a practical difficulty variance?

Atty. Saucier replied yes, that is his recommendation. He said the Board should apply the existing variance criteria to waivers if they are going to hear them. He said it is most likely that can be upheld by the Court if they use the criteria in the State statute.

Chairman Hamilton asked if they should use the five general questions previously used by the Board of Appeals or the four criteria in the ordinance?

Atty. Saucier replied he suggests the four criteria that are required under undue hardship. He said it is interesting to him that the five standards come from setback variance requirements from the State statute that Eliot has not adopted, so, at some point, someone thought they should use something from the statute, but they have not been affirmed or adopted by the town. He said the Board of Appeals should use the undue hardship standards.

Atty. Saucier said he did find a waiver that was in front of the Superior Court in 2007, McKinney vs. Town of Eliot. He said it was for a waiver and a variance from Ethel’s Tree of Life using American Legion which was remanded back to the Board of Appeals for additional findings. He said they applied the undue hardship standards and since the application met the requirements for a variance, they had relief of waiver. He said they did not create new standards and the Court upheld that. He said the Court did not get into the issue of the waiver variance, but they did apply the undue hardship variance standards. He said the finding, since the application met the criteria, they did meet the variance standard, and the Court upheld that. He said that Ethel’s Tree of Life met the requirements and that is one piece he could find.

Atty. Saucier thought that that was instructive as they did base it on variance standards – that is what he found. He said that is what he recommends for the time being – following the variance standards the Board of Appeals has, based on the State statute.

Chairman Hamilton asked how does that apply to the CEO to grant a waiver? He said according to the Attorney for the MMA’s concern, applications go to the CEO and she is allowed to grant a 25% waiver, then that is an interpretation of the authority granted.

Atty. Saucier said the CEO should refer it back to the Board of Appeals.



Chairman Hamilton asked even if it is for 25%?

Atty. Saucier replied yes, it is not the proper venue. He said the CEO does not have the authority, except in State law, where the CEO could authorize a disability variance. He said they would have to have a Town Meeting to adopt these changes. He said other than that, the Code Enforcement Officer does not have the authority to grant a waiver or a variance.

Ms. Ross asked what happens if she has a request for that?

Atty. Saucier said that the CEO can make a recommendation, like a staff memo, based on the four criteria, and send to the Board of Appeals.

Ms. Ross replied that there are very few property owners who meet all four criteria.

Atty. Saucier asked if they get a lot of requests?

Chairman Hamilton said that the CEO has said that she has granted quite a few 25% waivers.

Ms. Ross said it is for non-conforming lots and, if the town wants to keep that provision for smaller lots, then they need to make changes to the Land Use Table for setbacks in it. She said she could send an actual letter that says this is the setback in your zone and if you have a non-conforming lot, you can have a setback of 25% and the ordinance allows that.

Mr. Billipp said it was done automatically.

Atty Saucier said he agreed, but if you have a lot of requests, the ordinance may need to be adjusted. He said there are specific criteria for granting a variance in the ordinance and if the setback is 20 ft. or less than that, they need a variance. He said if the CEO can reduce by 15 ft. and the town has decided that is okay, then in his opinion, they can reduce the setbacks. He said that is another way to look at it and they have an opportunity to reduce the setbacks to a specific number with articulable criteria.

Ms. Ross thought that it may relate to smaller lots, 10,000 sq. ft. or less where she can do this or that.

Ms. Hanson said what you are saying is to treat the waiver as a variance. She said she is concerned if someone asks for waiver and needs a variance, that would need to be clear in the ordinance. She said if she was on the other side of this and came forward asking for a waiver not a variance and it is clear it is not in our ordinance, she would be upset there were no criteria and why was she not getting a waiver?

Atty. Saucier said that is a fair assessment and that is why he recommends that the town does this as soon as possible – hold a special town meeting. He said they are discussing an interim measure and if the decision can be upheld by the court. He said if someone is unhappy with a waiver, this is protection for the property owner as well as the town. He said if the Board grants one, without the key criteria, the decision is subject to being overturned by the court.

Ms. Hanson said we have no criteria to deny it, if they bring that to court.

Ms. Ross said there is a piece where the Planning Board addresses waivers, but it does not address setback criteria in that either.

Atty. Saucier said he wanted to clarify that people get confused between the Planning Board and the Board of Appeals. He said the Court is clear that only the Board of Appeals can grant variances but

sometimes the Planning Board can grant waivers that are not in the Land Use ordinance, like for subdivisions or other sites.

Chairman Hamilton said they would still need to meet the criteria.

Atty. Saucier said yes, they would still need to meet the criteria, that is always recommended. He said what the courts do not like is if the Board approves something because you like it, then it would be overturned. He said they have to use unfettered discretion and people would need to know what they are applying for, what the application is based on and how the Board made their decision. He said these are the basic tenets of the process.

Chairman Hamilton asked if that is the arbitrary and capricious standard.

Atty. Saucier replied yes.

Ms. Ross said they are not required in the ordinance.

Atty. Saucier said sometimes they use variance, but it is a different animal.

Chairman Hamilton asked if the Board had any other questions?

Ms. Hanson asked if he could summarize what was suggested.

Chairman Hamilton replied the Town Attorney is asking us to hear waivers, but to use the same standards for a variance and the Code Enforcement Officer should refer any request for a waiver to the Board of Appeals for determination. He said that, at the same time, the town should try to amend the ordinance to allow provisions for different types of variances.

Atty. Saucier said he agrees with that.

Ms. Lemire said she has a procedural question and asked what does "slightly easier" mean regarding a practical difficulty variance?

Atty. Saucier responded the hardest standard is the undue hardship, "the land in question cannot yield a reasonable return unless the variance is granted." He said the "practical difficulty" does not have that criteria and that is the difference. He said a practical difficulty variance means "the strict application of the ordinance to the petitioner and their property would cause practical difficulty if the following conditions exist." He said he will read them and some are the same: is not due to the unique circumstance of the property, would not produce an undesirable change in the neighborhood, would not be detrimental to the use or market value of the abutting properties, is not due to an action taken by the petitioner or prior owner and there is no feasible alternative available to the petitioner and would not affect the natural environment, or is in the Shoreland Zone.

Atty. Saucier said the practical difficulty is defined as the strict application of the ordinance and precludes the petitioner's ability to pursue the use permitted in the zoning ordinance in which the property is located and would result in significant economic and unreasonable injury to the petitioner. He said this would still be difficult.

Atty. Saucier said he attended a Municipal Lawyers' Conference and was talking with a lawyer who used to work for MMA and he said the purpose of this practical difficulty variance was to create something easier to get a variance, for better or worse, in 1997. He said it is a little easier because there is no reasonable return standard.

Ms. Lemire asked if that has been defined in case law?

Atty. Saucier replied yes because, basically, it is almost impossible to get a variance.  
Mr. Marshall said that it is ridiculous., you are stuck.

Atty. Saucier said it may make sense to adopt this other variance.

Ms. Ross said due to the general conditions of the neighborhood, would make more sense to make changes to the zoning table.

Ms. Lemire said like the criterion "is it a result of an action due to the owner or the prior owner? She asked which one are you talking about – could be the same.

Atty. Saucier replied there is little guidance and that a reasonable return has been considered by the Court means the applicant has to show by the denial of variance, the applicant will not have practical use of the land, only if the property cannot yield a reasonable return for any permitted use.

Atty. Saucier said there was a case in Fryeburg where they could not build a house without a variance; however, they could still launch the boat on the lake and the Court deemed that was enough of a reasonable return. He said there was another case in Scarborough where the Court upheld the variance for only non-productive uses. He said that is the reason why it was written that way, the purpose of the Zoning Board of Appeals was to bring things into conformity. He said it is very difficult but the idea was to make it more, not less conforming.

Atty. Saucier said his suggestion is if what you are finding, a sore, sticking point that people cannot get over, then you may have to change the ordinance. He said if you find it does not make sense you should change your ordinance, but maybe it is a town policy.

Ms. Lemire said the Planning Board just did that with the definition of a front yard.

Atty. Saucier said you will identify this over time and make changes.

Ms. Hanson said to summarize, make additions to the ordinance and, secondly, what we are saying is to get rid of the stricter variance and put in the practical difficulty variance.

Atty. Saucier said the town cannot get rid of the undue hardship variance but offer the practical difficulty variance as an alternative.

Ms. Hanson asked why not?

Atty. Saucier replied if you are keeping this one on your form, you have to use the criteria. He said it is probably easier to use the setback variance for single family dwellings, once the ordinance has been adopted at the town meeting. He said it would take the place of a waiver, if it is permitted, but does not include the practical loss standard or the no feasibility language or reasonable return so it would be easier. He said that is probably the best one to fit the intent of that ordinance.

Ms. Ross asked if they would have to adopt all the criteria?

Atty. Saucier replied yes, but you could have it only apply to non-conforming lots.

Ms. Hanson said they could have put a list of variances on the application which someone could check off.



Ms. Lemire asked Atty. Saucier if he has not found any other towns using waivers?

Atty. Saucier replied he has not found any other towns that have waivers. He said that he has found other towns that use non-authorized variances criteria. He said some of these have organically appeared and stay on the books until they have been challenged. He said there have not been a lot of challenges that he could find in case law for the Zoning Board Of Appeals' authority. He said he does see other types of variances in the Statute.

Mr. Pomerleau said he read the MMA Report and there are three levels involved: 25% by the CEO and 50% by the Board of Appeals, using the variance criteria. He said Atty. Saucier's recommendation to the Board, until such time the ordinance is changed, is that the CEO should refer waivers to the Board of Appeals to use arbitrary standards, but that is not the language in the ordinance. He said she has the authority to grant a waiver. He said he does not see a waiver, he sees criteria as "x" minus 25%, but the standard the Board of Appeals uses to apply are from the variance criteria. He said you are writing language into the ordinance that doesn't exist to refer waivers to the Board of Appeals.

Atty. Saucier said he has not considered the CEO's authority and he might take that back. He said the other option is for Ms. Ross to continue to do it based on the hardship language.

Mr. Pomerleau said to refer them to the Board of Appeals and apply the variance criteria. He said the ordinance did not say that variance criteria are to be applied by the Code Enforcement Officer. He said you are writing language that does not exist.

Atty. Saucier said he is suggesting that she does that, that the Board of Appeals applies this as it is under 50%. He said in the case of McKinney versus the Town of Eliot, they applied for a waiver and a variance and the Court upheld the decision.

Mr. Pomerleau said what the intent is for the CEO to have authority. He said the Court got involved with the intent of the ordinance and the intent was to give the CEO discretion.

Atty Saucier replied under State law, the Statute is very clear and only the Board of Appeals has the authority.

Chairman Hamilton said in the statutes, it is referred to as a waiver when it gets to 50% and then it is a variance. He said as Ms. Ross just said, she does not have any criteria to decide if someone wanted to put their house where there is a 20 ft. setback standard and now it is 15 ft., she does not have the authority for a variance.

Mr. Pomerleau wanted to know if the Court got involved with the intent of the ordinance because it says the CEO can grant a 25% waiver.

Atty. Saucier said that under State law, the CEO's authority is for granting 25% but under State statute the Board of Appeals can only grant variances.

Chairman Hamilton said in the ordinance it says the Board of Appeals is the only Board that determines waivers but we do not have any criteria to grant a waiver or not. He said if he were an abutter with a 20 setback and now they request 15 ft., I would take that to Court and ask what criteria did the Board use to justify their decision?

Ms. Ross said she has not had many and if she did, they do generally apply to smaller lots which happened to be approved. She said maybe the ordinance should be changed to reduce the setbacks particularly with non-conforming lots.



Chairman Hamilton said the intent of the ordinance is not to make non-conforming lots more non-conforming. He said they should be making them less, not more.

Ms. Ross said unless the ordinance is changed.

Chairman Hamilton said maybe the Town does not want to do that. He said maybe it is easier for people to do who have small lots but it does not mean they will automatically get a waiver. He said the non-conforming lots were made before the zoning ordinance was in place when they bought the lots.

Atty. Saucier said that Chairman Hamilton has a good point. He thought they have an ordinance that says something and you have to apply it, but 25% is allowed for the CEO. He said the CEO should continue to issue those if she wants to but have the Board of Appeals also grant them. He asked what will happen if it goes to Court and the CEO does not have the authority? He said when you get an appeal in the future, this is the best way to protect the town. He said the best option is to not go down there and the CEO and I can talk about this. He said his recommendation is that they amend the ordinance before they get any more requests and clarify that in the ordinance as soon as possible.

Rosanne Adams, 37 Goodwin Road, said her concern is the CEO granting waivers is not necessarily because no one had a problem. She said the abutters did not know the ordinance and would not receive a notice like with the Board of Appeals, and she thought that has to be clarified.

Ms. Adams said, as an abutter, things happen and you do not know what the setbacks are. She said in addition to that language being clarified, she suggested when changing the ordinance, it should not apply to every lot in town, just specifically to non-conforming lots like Heather Ross said. She said they are applied all the time to side and front yard setbacks all over town and did not think it should. She said to be careful so the people in town understand exactly what you are changing and what it means.

Chairman Hamilton said they will have to have a public hearing on the proposed amendments to the zoning ordinance before they will be adopted.

Atty. Saucier said it is why he would point out the "Setback Variance" to the Board of Appeals. He said that is what the waiver is, where there are articulable standards and could be limited to non-conforming lots. He said he would add that into the provision.

Chairman Hamilton asked if there were any other questions? Seeing none, he thanked Atty. Saucier for coming and meeting with them. He said his information was very helpful to the Board.

Atty. Saucier thanked Chairman Hamilton and the Board and said he would follow up with Ms. Ross and he will speak with her about this other issue. He still felt that the best option is to change the ordinance as soon as possible.

#### New Draft Board of Appeals Application Form:

Chairman Hamilton said the Board has come to the next part of the agenda, to review the proposed application form for the Board of Appeals, that Ms. Ross came up with, to make it more streamline. He said they should review it because he had concerns with some of the issues that were discussed and the need for a variance.

Ms. Ross said this is just a basic application.

Chairman Hamilton thought that it is a great idea and that they should tweak it. He said they should have a complete application and often times they do not have enough information. He said this is a checklist and is very helpful. He said where it falls short is that we need to know what the rationale is behind the Administrative Appeal or the Variance and nothing in the proposed application addresses

that. He said it lists the powers of the Board of Appeals and the procedure, but it needs to include the four criteria for a variance and what is the nature of the administrative appeal.

Ms. Lemire agreed the four criteria for a variance should be added, but they did not need a project narrative.

Chairman Hamilton said the application is not great for appeals.

Ms. Ross replied that her intent was for the applicant to just give a brief synopsis, a quick bit of information for the Board to put on the agenda. She said if the applicant requires a variance, he/she can attach a separate sheet to the application.

Chairman Hamilton thought the Board should require the applicant(s) to outline the issues of their request first before they see the agenda.

Ms. Ross said it can be addressed and submitted along with the application.

Chairman Hamilton said he would need more than that as they would have no clue why someone is appealing. He said the Board would ask if it is a decision of the Planning Board or the Code Enforcement Officer?

Ms. Ross said she is trying to put together a basic application.

Ms. Hanson said what she is suggesting is a one-sentence narrative, this is what it is about, and if it is an Administrative Appeal, then the applicant would need to attach a document that would address this or that. She said or if this was a variance, it would be very specific and be a part of the packet that we would see.

Chairman Hamilton thought that it needs to be six pages instead of four pages to provide information that would enable the Board to do research before they come to the meeting. He said this would also allow us to dig into the Code a little more to figure out what is needed to address the request rather than, essentially, be blind-sided as to why the Code Enforcement Officer made a poor decision or why the applicant feels the Planning Board made a wrong decision. He said the Board may need to get a legal opinion before the meeting and that the application form needs to be more detailed.

Ms. Ross responded they would have to write it, it is not a fill-in form and attach it to the packet. She said they would have more complete detail and it would need to be submitted.

Ms. Hanson said she agrees with Ms. Ross, that there should be one document, the initial application, and then separate material would have to be addressed and included in the packet. She asked is that correct?

Ms. Ross replied correct.

Ms. Hanson said this would be the application and cover sheet.

Ms. Lemire said she liked the cover sheet. She said it looks so much more professional than the other form they had.

Chairman Hamilton said he would like to see the next edition.

Ms. Ross said it would be a more specific cover letter and she could change the word "project" to "Nature of the Appeal" on the application.



Chairman Hamilton asked if there were any other questions from any one else? He said if not, they would address the minutes of April 19<sup>th</sup>.

#### **4. REVIEW AND APPROVE MEETING MINUTES OF APRIL 19, 2018**

Chairman Hamilton, along with the Board, reviewed the minutes page by page and a few corrections were noted.

Ms. Lemire moved that the Board of Appeals accept the minutes of April 19, 2018 as amended, seconded by Mr. Billipp. All were in favor by a voice vote, aye, 5-0, none opposed, motion carries.

#### **5. OTHER BUSINESS AS NEEDED**

Chairman Hamilton asked if any one wished to discuss any other business that is not on the agenda or discussed tonight?

Mr. Marshall asked would this part of the agenda be a good place for us to have the "Public Comment" portion?

Chairman Hamilton replied it could well be.

Ms. Lemire said if they do have an appeal, then the "Public Comment" should be first, before the public hearing.

Mr. Marshall asked if they have criteria for who has input at a public hearing?

Ms. Lemire responded no, if we have appeals, we may have a 10-minute public input, right after roll call, before we get into the public hearing.

Mr. Billipp said right, it would have to be a short duration. He suggested adding "Public Comment" between #1 and #2.

Ms. Ross said you don't want them commenting on the appeals.

Ms. Lemire said no, just a general comment, like a suggestion for the ordinance.

Chairman Hamilton said the new by-laws were approved and he will bring the revised copy to the Town Clerk's office and sign it. He thanked the Select Board for their input.

#### **6. ADJOURN**

Mr. Billipp moved to adjourn the meeting at 8:13 p.m., seconded by Ms. Lemire. All were in favor by a voice vote, 5-0. Motion carries.

Respectfully submitted,

Barbara Boggiano  
Recording Secretary

Approved by:   
William Hamilton, Chair, BOA

Date Approved: 8-16-18

